

ACCESS TO/STORAGE OF MEDICAL RECORDS AND INFORMATION

1826

(No. 20 January 1999)

Regulations for access to and disclosure of medical information and storage of confidential medical records are specified in:

- Civil Code Section 56 *et seq.* (the Confidentiality of Medical Information Act);
- Title 8, California Code of Regulations, Section 3204;
- Section 375 of the *Personnel Management Policy and Procedures Manual* (PMPPM); and
- Other codes and regulations, e.g., the Americans with Disabilities Act, California Labor Code Section 6408(d).

The inappropriate release or disclosure of confidential medical information by CAL FIRE staff can be cause for adverse action up to and including termination. CAL FIRE personnel with questions about medical information access, disclosure, or storage should contact the appropriate CAL FIRE Nurse Practitioner.

The security and confidentiality of all circulating CAL FIRE medical records shall be the responsibility of the CAL FIRE Nurse Practitioner(s). Circulating medical records must be kept in an office that has restricted access and locked in a file cabinet. Temporary medical files may be kept on a computer hard drive, but must be password protected.

The Chief of Human Resources, as custodian of personnel files, is responsible for controlling access to any confidential medical records that are stored in the Personnel Office. The department Nurse Practitioner(s), Medical Consultant, OSHPros personnel, and Return-to-Work Coordinators are responsible for maintaining the integrity and confidentiality of the medical records under their control.

Access to an employee's confidential medical records is limited to the Chief of Human Resources, the CAL FIRE Nurse Practitioner(s), and Medical Consultant and Medical Services clerical staff. Access to the medical file storage area and computer(s) containing medical records is restricted to the Chief of Human Resources, CAL FIRE Nurse Practitioners, Medical Consultant, and the Medical Services clerical staff. The CAL FIRE Return-to-Work coordinators may have access to the employee's confidential medical records only for the purpose of evaluating the completeness of the medical records and forwarding a copy of the file to the State Compensation Insurance

Fund (SCIF). This procedure can take place only after the employee opens a claim under the Workers' Compensation Program. After each SCIF claim is closed, all of the employee's confidential medical records are to be returned to the medical records storage area for filing.

All confidential medical records will be transferred to the Sacramento Headquarters Medical Services Program for storage when they are not being used by the field Nurse Practitioners, the employee transfers to another unit outside of their current region, or the employee leaves State service. The Sacramento Headquarters Medical Services Program staff are responsible for tracking all confidential CAL FIRE employee medical records statewide.

With the exception of entries made by a medical provider or psychological examiner that are deemed harmful to the employee if disclosed to him/her, copies of the employee's medical file may be made available to the employee or his/her designee if requested in writing. Under the Confidentiality of Medical Information Act, an employee must provide a valid authorization releasing medical information before any disclosure is permitted.

The following circumstances involve limited access to medical information:

1. Supervisors or managers must be informed of an employee's functional limitations, work restrictions, or necessary accommodations, but **shall not have access to medical documents**.
2. First aid and safety personnel must be informed of conditions that may require an emergency intervention or treatment.
3. Background investigators who obtain information about medical problems in the course of collecting or verifying other information should maintain its confidentiality and report the information separately to the Nurse Practitioner or Medical Consultant.

SENDING MEDICAL INFORMATION

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Medical information to be reviewed by CAL FIRE's Nurse Practitioner(s) or Medical Consultant (e.g., health questionnaires, examination results) should be sent by mail. The envelope must be addressed directly to the CAL FIRE Nurse Practitioners. The envelope must be sealed completely and clearly marked "Confidential."

Because of the sensitive nature of personnel and medical information, and the inherent liabilities associated with its unauthorized release, medical information should be faxed only when unanticipated deadlines or emergencies require a rapid review and response.

In special circumstances where medical information is faxed, Department staff must comply with the following procedures to protect employee or applicant confidentiality:

- Ensure that the information to be faxed is clear and complete.
- Use only the fax number for the appropriate region, area, or headquarters Nurse Practitioner. Be sure that the correct number has been dialed or programmed before sending the fax.
- Before faxing, contact the appropriate Nurse Practitioner or authorized clerical staff by telephone to inform them that confidential medical information is being faxed. The sender must speak directly to a person within the office.
- Include a **fax transmittal cover sheet** [{see exhibit}](#) that has a confidentiality statement and clearly indicates the number of pages sent.
- **Do not fax medical information outside business hours** (0800 to 1700) or overnight. Always be sure there is an authorized staff member at the Nurse Practitioner's location to receive the fax and secure it.
- Contact the Nurse Practitioner or authorized clerical staff immediately after sending the fax to make sure that it was received.
- Check the fax machine printout after transmitting the document to make sure that the transaction was completed correctly and all pages were sent.

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[\(see Forms or Forms Samples\)](#)